



**NOTTAWASEPPI HURON  
BAND OF THE POTAWATOMI**

A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT

January 15, 2018

Families, Children, and Senior Committee  
House of Representatives  
124 North Capitol Avenue  
P.O. Box 30014  
Lansing, MI 48909-7514

Dear Chairperson Rendon and other distinguished Members of the House Families, Children and Seniors Committee:

I am writing in support of Senate Bill 616, which amends the Child Protection Law. I offer the words below not only as an elected Leader representing my own Nation, but also as a father and a steward of the next seven generations.

I would like to start by expressing my gratitude to Senator Emmons for sponsoring Senate Bill 616 and for her continued leadership and passion in the pursuit of justice and the protection of children and families.

Approximately four (4) years ago, the State of Michigan joined a handful of other states in taking a major step toward meeting its obligations under the Indian Child Welfare Act (ICWA) and clarifying how Michigan's human services system and courts would work with Michigan's Indian tribes to implement ICWA.

Until recently, my Tribe's experience has shown that the Michigan Indian Family Preservation Act (MIFPA) was working and improving the management of cases involving Indian Children.

In what appears to be a change in practice and policy, the Michigan Department of Health and Human Services (the Department) is now interpreting MCL 722.627 in a way that prevents the Department from sharing confidential records compiled under the Child Protection Law with tribal governments, tribal representatives, and tribal social services agencies. The Department's interpretation of the Child Protection Law is in direct conflict with its obligation to provide active efforts to prevent the breakup of the Indian family pursuant to MIFPA.

Senate Bill 616 was introduced to allow a tribal entity or tribal social services representatives access to confidential records compiled pursuant to the Child Protection Law. The important attributes of Senate Bill 616 clarify the Department's authority and obligation to share confidential child protection records with tribal representatives, agencies, or organizations in furtherance of its obligation under the MIFPA.

At the heart of this issue is the safety and security of Indian children. The Child Protection Law, ICWA, and MIFPA, are all intended to keep vulnerable children safe. ICWA and MIFPA recognize the unique political status of Tribes, and their right to have a say in decisions involving the protection and care of tribal children and tribal families. Recent communication with the Department reveals its view that tribes are no different than any other private party in a child protection or custody proceeding. That viewpoint ignores ICWA, MIFPA, and the Department's obligation to communicate with tribes on a government-to-government basis. That viewpoint also ignores the central issue in child custody proceedings, the safety and security of Indian children.



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Tribes are unique. Tribes are sovereign governments and very closely knit communities as well as extended families. Tribes are not identical to any other party in child custody proceedings. Tribes are the best resource to prevent the breakup of an Indian family. As recognized in MIFPA, culturally appropriate services are an essential part of active efforts. Tribes are in the best position, the only position, to know what services are culturally appropriate when there are specific challenges facing tribal families.

Michigan law defines "Active Efforts" at MCL 712B.3. There are twelve (12) sub-paragraphs that explain the minimum level of effort required to achieve active efforts. Five (5) of the twelve (12) paragraphs explicitly mandate that the Department seeks collaboration or input from the Indian child's tribe. The Indian child's tribe is implicit in many of the remaining requirements.

The Department interprets the Child Protection Law as prohibiting it from communicating with, and involving Tribes, contrary to MIFPA's active efforts mandates. Any amendments to MCL 722.627 should clearly and unambiguously recognize the specific obligations of the Department and authorize the Department to share confidential records to carry out those obligations.

Senate Bill 616 removes potential ambiguity by ensuring that all key words are defined by either the Child Protection Law or MIFPA. Senate Bill 616 recognizes that a tribal government is in the best position to determine which of its representatives and employees need access to confidential records. Senate Bill 616 makes it clear that only a child's tribe can access that child's information. We believe that these are important attributes for any effective amendment to the Child Protection Law.

ICWA, MIFPA, and the Child Protection Law are all in place to promote the safety and welfare of children. Any interpretation or application of these laws that would harm our children by alienating them from the services that promote their safety, security and sense of self, should be met with swift action.

The Nottawaseppi Huron Band of the Potawatomi supports Senate Bill 616, in the form that was unanimously approved by the Senate, to remove any perceived barriers and ensure that Tribal Children receive active efforts to prevent removal, as mandated by ICWA and MIFPA.

I again want to thank Chairperson Rendon and this Committee for the opportunity to express the Tribe's support of Senate Bill 616. I urge this Committee to take prompt action to approve SB 616 and to bring this important legislation to a vote by the full House.

Kche Migwéché,

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